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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/669,132	09/22/2003	Mark Pearson	LIF-0003	2865
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Goodwin Procter LLP				
Attn: Patent Administrator				
135 Commonwealth Drive				
Menlo Park, CA 94025-1105				
EXAMINER				
REYES, REGINALD R				
ART UNIT		PAPER NUMBER		
3626				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/669,132

Applicant(s)

PEARSON, MARK

Examiner

REGINALD REYES

Art Unit

3626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 February 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 9, 11, 20, 22, 28, 51, 52 and 63 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 9, 11, 20, 22, 28, 51-52, 63 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Status of Claims

1. This office action is made Final. Claims 1-3, 9, 11, 20, 22, 28, 51-52, 63, have been examined and are addressed below. Claims 4-8, 10, 12-19, 21, 23-27, 29-50, 53-62, 64-69 have been cancelled.

Response to Amendments

2. The rejection of claim 4-5, 15-16, and 47 under 35 USC § 112 second paragraph is withdrawn in light of Applicant's cancellation of the claims.

3. The applicant's amendments have been reviewed and fully considered but are moot in view of the new grounds of rejection. With respect to claims 1-3, 9, 11, 20, 22, 28, 51-52, 63, Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-3, 9, 11, 20, 22, 28, 51-52, 63 are rejected under 35 U.S.C. 103(a) as being unpatentable over Paasche et al (U.S. 7,359,871) in view of Patricelli et al (U.S.

7,174,302) and Heimermann et al (U.S. 7,110,976) and Bednarek (U.S. 6965,868) and Martinez et al (U.S. 6,119,229).

5. Referring to Claim 1, 20 Paasche teaches a method of selling a health related product or service via the internet, comprising: providing a service provider system that includes a web server, the service provider system having members that purchase health related products and services through the service provider system (see for example Paasche column 25 lines 2-30); enrolling applicants in the service provider system as members (see for example Paasche column 2 lines 23-42), the service provider system including a service database that provides a listing of insurance services (see for example Paasche column 65 lines 17-29), (); receiving a product or service request message for a desired product or service from a member through a customer interface, the product or service request message including a product or service identifier (see for example Paasche column 2 lines 63-67 and column 3 lines 1-16 and Fig 1); transmitting by the service provider system a request for the desired product or service request to a supplier of the desired product or service (see for example Paasche column 9 lines 30-42); awarding points to a member, the points having characteristics of, being transferable by the member to an exempt organization for use in fulfilling its exempt (see for example Paasche column 67 lines 56-62) purpose within a computer memory points awarded to a member for purchases (1) made by the member itself through the service provider system (see for example Paasche column 66 lines 26-42 and Fig. 20), (11) made by members who were referred to the service provider system by the member (see for example Paasche column 29 lines 65-66), and

(111) made by members who were referred to the service provider system by members in (11), wherein the service provider system pays at least a portion of federal tax due for the points awarded (see for example Paasche column 31 lines 65-67 and column 32 lines 1-4 and Fig. 2). Using the points to purchase health related products and services through the service provider system(see for example Paasche column 64 lines 22-30). Paasche does not teach the service provider system providing an aggregation of members purchasing power through the service provider system. Heimermann teaches aggregating the purchasing power of the members in the service provide system (see for example Heimermann column 8 lines 30-33). Neither Paasche nor Heimermann teach the points awarded being tax free. Patricelli teaches a designating a portion of his or her compensation into an FSA on a tax-free basis (see for example Patricelli column 1 lines 35-37). Neither Paasche, Heimermann, nor Patricelli teaches the award points can't be converted to cash or cash equivalent. Martinez teaches wherein at least a portion of the points can not be converted to cash or a cash equivalent (see for example Martinez column 25 lines 40-47). Neither Paasche, Heimermann, Patricelli, nor Martinez teaches the award points to have a limited life. Bednarek teaches wherein the points have a limited life (see for example Bednarek column 17 lines 61-67). It would have been obvious to one of ordinary skill in the art at the time of invention to combine the features and not to tax the account to give incentives to the members and to not to give cash value to reward points to keep the members from using the accumulated points to buy products that are not sold by the service provider system and also to

encourage the members to use it and motivate them to purchase more items in the long run.

6. With respect to claim 2 Paasche view of Patricelli and Heimermann and Bednarek and Martinez teaches the method of claim 1(as described above). Paasche teaches wherein at least a portion of the points are utilized by members for future purchases of products or services through the service provider system (see for example Paasche column 64 lines 22-30).

7. Referring to Claim 3 Paasche view of Patricelli and Heimermann and Bednarek and Martinez teaches the method of claim 1(as described above). Paasche teaches wherein at least a portion of the points are utilized by members for application to a health savings account or a similarly approved account (see for example Paasche column 65 lines 17-29).

8. Referring to claim 9 Paasche view of Patricelli and Heimermann and Bednarek and Martinez teaches the method of claim 1(as described above). Paasche teaches wherein at least a portion of the points are utilized by members to offset costs associated with a health savings security account or a similarly approved account (see for example Paasche column 67 lines 1-14).

9. Referring to claim 11 and 22, Paasche view of Patricelli and Heimermann and Bednarek and Martinez teaches the method of claim 1(as described above).

Heimermann teaches aggregating the purchasing power of the members in the service provide system (see for example Heimermann column 8 lines 30-33). It would have been obvious to combine both features to get discounts and other special offers for purchasing a larger amount.

10. Referring to claim 28 Paasche view of Patricelli and Heimermann and Bednarek and Martinez teaches the method of claim 1(as described above). Paasche teaches wherein all of the points awarded by the service provider system remain within a community defined by the service provider system (see for example Paasche column 66 lines 27-42).

11. Referring to claim 51, Paasche view of Patricelli and Heimermann and Bednarek and Martinez teaches the method of claim 1(as described above). Paasche teaches wherein the points can only be used as a discount on future purchases of products or services through the service provider system by the member who earned them (see for example Paasche column 64 lines 22-30).

12. Referring to claim 52, Paasche view of Patricelli and Heimermann and Bednarek and Martinez teaches the method of claim 1(as described above). Paasche teaches wherein the products are selected from vitamins or nutritional supplements,

energy/protein bars, health food products, weight loss products, non-prescription drugs, prescription drugs, contact lenses and associated supplies, dermatology/skin care products, oral care products, fitness products, fitness clubs, health books, health and fitness magazines, health insurance, wellness insurance, disability insurance, dental insurance, pet insurance, allergy and asthma products, diabetes products addiction treatment and rehabilitation treatment centers, athletic clothing and gear, therapeutic and chiropractic products, pet care and medication products, and exercise equipment (see for example Paasche column 58 lines 4-13).

13. Referring to claim 63 Paasche view of Patricelli and Heimermann and Bednarek and Martinez teaches the method of claim 1(as described above). Paasche teaches further comprising: assigning to a member a debit or credit card. 64.-69 (see for example Paasche column 49 lines 46-50).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patent No. 7,383,198 teaches a delivery information systems and methods.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to REGINALD REYES whose telephone number is (571)270-5212. The examiner can normally be reached on 7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Gilligan can be reached on 571-272-6670. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/R. R./

Examiner, Art Unit 3626

/C. Luke Gilligan/

Supervisory Patent Examiner, Art Unit 3626